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**Subject:** Company linked to PFOA sues state over enforcement authority

## Company linked to PFOA sues state over enforcement authority

By Mike Polhamus

The state is being sued by the company whose North Bennington property is believed to have contaminated local wells with the chemical PFOA.

The company claims that no science supports the Vermont toxicologist's maximum recommended exposure limit for the chemical.

Saint-Gobain Performance Plastics, a French corporation that purchased the Chemfab factory in North Bennington in 2000, filed legal actions last week, potentially cooling a relationship that state officials have characterized as unusually cooperative.

If the company is proved to have contributed to the contamination, it could be held responsible under state hazardous waste laws. Testing has found more than 100 residential wells in North Bennington tainted by perfluorooctanoic acid, or PFOA.

When the contamination became known, officials in the Department of Environmental Conservation and Department of Health set an advisory drinking water limit on a provisional basis of 20 parts per trillion for PFOA, also known as C-8. Members of the Legislative Committee on Administrative Rules formalized that limit Thursday by adopting a rule.

Saint-Gobain argues in its legal filings that the limit lacks scientific foundations. The company also says the provisional limit is unenforceable because it was adopted under the wrong proceedings.

DEC Commissioner Alyssa Schuren said Thursday's legislative rule-making session takes care of the latter complaint, since lawmakers followed the necessary and established procedures.

"That in effect moots this lawsuit," Schuren said Thursday of that morning's PFOA rule-making. "What they're requesting is that we'll go through (Vermont's administrative process), and we did that this morning."

But Schuren said the suit in which Saint-Gobain claims Vermont hasn't demonstrated a scientific basis for the regulatory maximum can proceed.

She said the state is prepared to defend the regulation in court.

Both New York and New Hampshire have set their maximum recommended long-term exposure levels at 100 parts per trillion, and the U.S. Environmental Protection Agency set its recommended long-term limit at 400 parts per trillion.

The state's Health Department set Vermont's own limit using more recent research than that on which New York and New Hampshire based theirs, said Vermont's toxicologist, Dr. Sarah Vose. That research

included a nearly 300-page study by the EPA on PFOA's health effects, a draft of which the agency released in 2014.

State officials also set Vermont's recommended limit at levels meant to protect newborns and infants, Vose said.

The 20 parts per trillion level also reflects the exact methods used to establish safe drinking water limits for all other toxicants in Vermont, said Danika Frisbie, the PFOA response public information coordinator for the Department of Environmental Conservation.

Saint-Gobain's costs for treating North Bennington residents' water, and for cleaning up the pollution, would likely be lower if the state had adopted a higher recommended long-term exposure limit, Frisbie said.

The company has already pledged more than \$4 million to pay for bottled water, blood tests and water filters for affected residents.

At the same time lawmakers adopted the regulatory limit Thursday, they also classified PFOA by law as a hazardous substance.

PFOA was used in the manufacture of Teflon products until the industry voluntarily phased it out by 2015.

A lawsuit against chemicals giant DuPont in the 1990s revealed that the company knew decades before of human health risks associated with PFOA. The settlement funded an unprecedented study of PFOA's long-term effects on workers and residents near one of the company's West Virginia factories who had experienced decades of exposure.

The study found a close relationship between PFOA and several types of cancers, as well as attention deficit disorder, hypertension and high cholesterol.

Lawmakers said the rules adopted Thursday represented an important development in the state's response to drinking water contamination that officials are still in the process of discovering.

The chemical also has been found in a public water system in Pownal and in surface waters in southwestern Vermont. Manufacturing sites in Bennington and Pownal are believed to be other sources of it.

"We had 20 parts per trillion in groundwater (as a recommended limit) ... but that had been advisory. This now puts it into rule, and the hazardous waste rule declares PFOA a hazardous waste," said Sen. Brian Campion, D-Bennington. "Those are pretty big steps, and good steps, in my opinion, for the protection of Vermonters."

A bill requiring tests for toxicants on all new wells could prevent widespread long-term exposure to carcinogens, Campion said.

The bill under consideration, "without a doubt gives the (Agency of Natural Resources) more power to protect citizens," Campion said. The bill sets up what will be "a complicated process but an important one, because we don't want Vermonters to have to pay for the destruction polluters do."

Thursday's rule setting a regulatory limit for PFOA calls for a four-month public comment period, Schuren said, during which Vermonters can vet the limit through a "robust" public process. Her department begins taking public comment on the rule Friday.

